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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1035 OF 2005
IN
SUIT NO.215 OF 1981

Mahavir Metal Mfg. Co.).. Plaintiffs

Versus

Bhikamsingh Rathod (since deceased))
Ramkunwar Bhikamsingh Rathod & ors).. Defendants

Mr.Bharat Vaishnawa i/b.N.N. Vaishnawa for the Plaintiffs.

Mr.A.N. Nasikwala for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 27TH JUNE 2006

P.C.:

. This Motion has been filed for staying the proceedings in the present Suit under Section 10 of the Civil Procedure Code. According to the Defendants, since the declaratory suit being RAD Suit No.17 of 1978 filed by the Defendants was pending in Small Causes Court in which the subject matter of the present Suit is the same, the Defendants have sought stay of the present Suit. However, that RAD Suit has already been dismissed and an Appeal therefrom is being preferred.

2. In my view, the Motion has become infructuous. Hence, Motion dismissed as infructuous.

3. Liberty to take out appropriate proceedings, if

necessary.